

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

CHRISTINE LUCERO, as Next Friend  
to DAN LUCERO

Plaintiff,

v.

No. 2:19-cv-00445-KWR-KRS

CITY OF CLOVIS POLICE DEPARTMENT et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE’S**  
**PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

**THIS MATTER** is before the Court on the Magistrate Judge’s Proposed Findings and Recommended Disposition (“PFRD”) (Doc. 104), in which the Magistrate Judge recommended granting Plaintiff’s Motion for Sanctions (Doc. 80).

Plaintiff’s Motion for Sanctions was referred to the Magistrate Judge to conduct hearings and recommend an ultimate disposition of the Motion in accordance with 28 U.S.C. § 636(b)(1)(B), (b)(3), and Fed. R. Civ. P. 72(b). (Doc. 92). The Magistrate Judge held a hearing on the Motion for Sanctions on December 1, 2020 and filed his PFRD on December 2, 2020 recommending: (1) granting Plaintiff’s Motion for Sanctions (Doc. 80); (2) imposing default judgment against Defendants; and (3) awarding Plaintiff attorney fees associated with briefing the Motion for Sanctions. (Doc. 104 at 7-8). The parties were notified that written objections to the PFRD were due within fourteen days. *Id.* at 8. No objections have been filed and the objections deadline of December 16, 2020 has passed. Appellate review of these findings is therefore waived. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1059-60 (10th

Cir. 1996). Failure to object to the PFRD also waives the right to *de novo* review by the district court. *See id.* at 1060; *Thomas v. Arn*, 474 U.S. 140, 149-150 (1985). Nevertheless, the Court reviewed the record of the case and agrees with the Magistrate Judge that the factors set forth in *Ehrenhaus v. Reynolds*, 965 F.2d 916, 921 (10th Cir. 1992) weigh in favor of imposing default judgment against Defendants for failing to meet their discovery obligations and comply with the Court's orders.

**IT IS THEREFORE ORDERED** that:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 104) is **ADOPTED**;
2. Plaintiff's Motion for Sanctions (Doc. 80) is **GRANTED** and **DEFAULT JUDGMENT** is entered in favor of Plaintiff and against Defendants;
3. Plaintiff is awarded attorney fees incurred in connection with preparing and litigating the Motion for Sanctions (Doc. 80), and Plaintiff shall file an itemization of fees for the Court's consideration **within two weeks of the entry of this Order**; and
4. This case is referred to Magistrate Judge Kevin R. Sweazea, in accordance with the provisions of 28 U.S.C. §§ 636(b)(1)(B), (b)(3), and Fed. R. Civ. P. 72(b), to conduct a jury trial on the question of damages pursuant to Fed. R. Civ. P. 55(b)(2).

**IT IS SO ORDERED.**

  
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KEA W. RIGGS  
UNITED STATES DISTRICT JUDGE